

Message Text

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USDOC FOR BEWT/USSR

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TAGS: BDIS, IR, UR
SUBJECT: TRADE COMPLAINT: ASSISTANCE TO ELECTRIC STORAGE
BATTERY (ESB-RAN) AND SAFEWAY STEEL PRODUCTS
(MILWAUKEE)

REF: (A) MOSCOW 13737 (B) USDOC 14775

1. SUMMARY: THIS CABLE SUMMARIZES RECENT ACTION ON PART OF COMMERCIAL OFFICE TO STRAIGHTEN OUT MATTER DISCUSSED REFTELS. INTER ALIA. BRIEFLY, COMATT CALLED ON DEPUTY CHAIRMAN OF SOYUZVNESHTRANS (SVT) RECENTLY IN FINAL ATTEMPT TO FIND SOLUTION TO PROBLEM OF DETAINED CONTAINERS OF MANGANESE ORE (ESB) AND STEEL COMPONENTS (SAFEWAY STEEL) BEFORE ESB ATTORNEYS CARRY OUT THREAT TO INSTITUTE LEGAL ACTION AGAINST SVT. BEWT/USSR IS REQUESTED TO BRING CONTENTS OF THIS CABLE DIRECTLY TO ATTENTION OF: MR. EUGENE A. THEROUS, BAKER & MCKENZIE, ATTORNEYS, 815 CONNECTICUT AVE., WASHINGTON D.C. (298-8290) AND TO MR. TERRY WENZEL, TRAFFIC MANAGER, SAFEWAY STEEL PRODUCTS, MILWAUKEE, (414) 258-2700, AND ADVISE OF THEIR REACTIONS.
END SUMMARY

2. COMATT MET AT OWN REQUEST WITH A.S. SAFRAY, DEPUTY CHAIRMAN, SOYUZVNESHTRANS (SVT), IN LATTER'S OFFICE SEPT 13 TO DISCUSS LETTER DATED AUG 30 FROM BAKER AND MCKENZIE, ATTORNEYS FOR ESB, TO N.S. SAVINOV AT SVT PROTESTING "ILLEGAL" DETENTION BY SVT OF UNCLASSIFIED

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SHIPMENT OF MANGANESE ORE AND THREATENING LEGAL ACTION. COMATT ALSO HAD IN HAND TELEX RECEIVED SEPT 11 FROM SAFEWAY STEEL PRODUCTS OFFERING TO PAY \$7,400 IN ORDER TO SECURE RELEASE OF TWO CONTAINERS OF STRUCTURAL STEEL COMPONENTS SIMILARLY BEING DETAINED

BY SVT.

3. BRIEFLY, SAFRAY WHO WAS ACCOMPANIED AT MEETING BY SAVINOV, OUTLINED SVT'S POSITION AS FOLLOWS: IN OPINION OF SVT LEGAL ADVISERS

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SVT WAS ON FIRM GROUND UNDER INTERNATIONAL LAW IN THAT IN THEORY THEY WERE NOT DETAINING CONTAINERS OF ESB NOR OF SAFEWAY STEEL PER SE BUT RATHER CONTAINERS BELONGING TO SHIPPERS, EDWARDS INTERMODAL TRANSPORT, INC. (SAFRAY SHOWED COMATT SEVERAL BILLS OF LADING ON WHICH EDWARDS TECHNICALLY APPEARED AS "SHIPPER" ACTING ONLY ON ACCOUNT OF ESB. INTERNATIONAL "RIGHT OF LIEN" APPLIED IN THIS CASE, SAID SAFRAY -- A RIGHT WHICH WAS ALSO IN ACCORDANCE WITH SOVIET LAW. SVT HAD NO QUARREL WITH EXB OR WITH SAFEWAY STEEL, ONLY WITH EDWARDS INTERMODAL.

4. SAFRAY CLARIFIED TERMS OF CONTRACT UNDER WHICH SVT HAD AGREED WITH EDWARDS INTERMODAL SEVERAL MONTHS AGO TO TRANSHIP TOTAL OF 128 CONTAINERS (ORIGINATING FROM U.S. EAST COAST PORTS) FROM BALTIC SEAPORTS TO DZHUL'FA ON IRANIAN BORDER. PAYMENT WAS TO BE MADE INCREMENTALLY AFTER COMPLETION OF GIVEN NUMBERS OF SHIPMENTS. (OF TOTAL, 108 CONTAINERS HAD ALREADY BEEN DELIVERED AT COST TO SVT OF MORE THAN \$240,000 WHEN DECISION MADE TO DETAIN ESB AND SAFEWAY CONTAINERS BECAUSE OF CONTINUING NON-PAYMENT BY EDWARDS INTERMODAL. TWENTY CONTAINERS WERE INVOLVED: 18 BELONG TO ESB AND TWO TO SAFEWAY STEEL.) DRAWING FROM MEMO RECEIVED IN MAY, 1976, FROM AMTORG OFFICES IN NEW YORK, SAFRAY SAID THAT SVT UNDERSTOOD THAT EDWARDS INTERMODAL BANK ACCOUNTS HAD RECENTLY BEEN BLOCKED BY COURTS AND THAT AS RESULT FIRM HAD SIGNIFICANT ASSETS OUT OF WHICH SVT EXPECTED TO BE PAID. SAFRAY SAID THAT SVT USUALLY DOES NOT RESORT TO SUCH DRASTIC MEASURES AS IT HAD IN THIS CASE AND EXPRESSED DISAPPOINTMENT OVER ALLEGED FACT THAT THIS WAS FIRST TIME IN SVT'S DEALINGS WITH U.S. SHIPPERS THAT DIFFICULTIES OF THIS NATURE HAD ARISEN. SVT HAD NOT HEARD OF ANY MOVE ON PART OF EDWARDS INTERMODAL TO GO INTO BANKRUPTCY; IN FACT, SAFRAY SAID HE HAD INFORMATION TO EFFECT THAT FOUNDER AND OWNER OF EDWARDS INTERMODAL, MR. (FNU) KEANE, HAD RECENTLY FORMED A NEW FIRM IN NEW UNCLASSIFIED

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YORK CITY KNOWN AS CENTURY SHIPLINES AND AGENCY, INC., ENGAGED IN CHARTERING SHIPS TO TRANSPORT BULK CARGO BETWEEN U.S. AND IRANIAN PORTS ON PERSIAN GULF. APPARENTLY, ACCORDING TO SAFRAY'S INFORMATION, KEANE ALSO LOST HIS SHIRT IN THIS ENDEAVOR BECAUSE THERE WERE TWO-TO-THREE MONTH UNLOADING DELAYS IN IRAN. NONETHELESS, SVT WAS STILL OF OPINION THAT EDWARDS INTERMODAL (AND MR. KEANE) HAD ASSETS AGAINST WHICH ITS DEBTS TO SVT COULD BE PAID.

5. COMATT REVIEWED POSITIONS OF U.S. FIRMS WITH SAFRAY, AS LAID OUT IN COMMUNICATIONS FROM U.S. CARGO OWNERS AND REFTELS INTER ALIA, AND CONVEYED OUR UNDERSTANDING THAT EDWARDS INTERMODAL IS NO LONGER VIABLE BUSINESS ENTITY. COMATT NOTED THAT BEST AVENUE FOR SVT TO FOLLOW IN SEEKING TO RECOVER LOSSES WOULD BE TO ENGAGE SERVICES OF

U.S. ATTORNEY, PERHAPS THROUGH SOVIET TRADE REPRESENTATIVES IN NEW YORK, AND GO AFTER PRESUMABLY NOW-DEFUNCT EDWARDS INTERMODAL THROUGH THE COURTS. SAFRAY INQUIRED WHETHER IT MIGHT NOT BE TOO LATE FOR SUCH ACTION, AND EXPRESSED SVT'S CONCERN THAT MONEY PAID TO EDWARDS INTERMODAL BY CARGO OWNERS IN U.S. (WHICH HE FELT WAS RIGHTLY SVT) HAD ALREADY BEEN DISBURSED TO U.S. CREDITORS OF FIRM. COMATT REPLIED THAT BANKRUPTCY PROCEEDINGS WERE OFTEN LENGTHY AND TEDIOUS AFFAIRS WHICH TOOK YEARS TO CONCLUDE, AND THAT SVT'S BEST BET WOULD BE TO GET IN LINE IMMEDIATELY WITH OTHER CREDITORS.

6. COMATT ALSO RENEWED TELEX OFFER ON PART OF SAFEWAY STEEL TO PAY \$7,400 DIRECTLY TO SVT TO SECURE RELEASE OF ITS TWO CONTAINERS AND EARLIER ESB OFFER (RETEL (??)) TO PAY ADDITIONAL \$35,000 ON ITS OWN ACCOUNT FOR SAME PURPOSE. COMATT ARGUED THAT COMBINED SUM OF \$42,000 WOULD AT LEAST PROVIDE SOME RETURN TO SVT ON OUTSTANDING DEBT OF EDWARDS INTERMODAL AND HAVE ADDED BENEFIT IN RESTORING POSSIBLE DAMAGE TO SVT IMAGE AMONG U.S. CARGO OWNERS AS A RESULT OF ITS RECENT ACTIONS. MOREOVER, COMATT NOTED THAT EVENTUAL DISTRIBUTION OF ANY REMAINING EDWARDS INTERMODAL ASSETS COULD EVEN RESTORE TO SVT SIGNIFICANT PART OF LOSSES INCURRED, SAYING HE UNDERSTOOD THAT BOTH SVT AND U.S. CARGO OWNERS HAD BEEN "VICTIMIZED" IN THIS "UNPLEASANT SITUATION", SAFRAY ASSURED COMATT THAT MATTER REMAINED UNDER DISCUSSION AND SVT'S FINAL DECISION WOULD HOPEFULLY BE MADE IN ONE WEEK (OR BY SEPT 22), AT WHICH TIME HE WOULD BE IN DIRECT CONTACT WITH ESB AND SAFEWAY STEEL.

7. COMMENT: ALTHOUGH SAFRAY DID NOT SAY SO, IT WAS CLEAR THAT UNCLASSIFIED

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SVT UNDERSTOOD POSSIBLE ADVERSE EFFECT OF ITS ACTIONS ON FUTURE BUSINESS WITH WESTERN SHIPPERS AND WAS CONSIDERING ACCEPTING PARTIAL ADDITIONAL PAYMENTS SPECIFICALLY COVERING 20 CONTAINERS OF FREIGHT OWNED BY ESB/SAFEWAY STEEL. WHILE WE CANNOT SAY WITH CERTAINTY THAT SVT WILL IN FACT AGREE TO ACCEPT SUCH PAYMENTS, WE FEEL THAT CHANCE OF THIS HAPPENING MAY BE GREAT ENOUGH TO WARRANT BEW'S INFORMING ATTORNEYS FOR ESB AND MR. TERRY WENZEL OF SAFEWAY STEEL PRODUCTS OF ABOVE MEETING AND SEEKING THEIR EARLY COMMENTS. FINALLY, IT WOULD HELP IF COMMERCE COULD PUT A TRACE ON THE LOST PERSON, MR. KEANE, ON THE OUTSIDE CHANCE THAT HE WOULD BE WILLING TO SHED SOME LIGHT ON MATTER OR, BETTER STILL, MAKE A STATEMENT TO SVT RE EDWARDS INTERMODAL INTENTIONS CONCERNING BANKRUPTCY PROCEEDINGS. ALTERNATIVELY, WE UNDERSTAND FROM SVT THAT ONE ROBERT SHUGG, FORMERLY IN KEANE'S EMPLOY, IS ALSO PRIVY TO THIS AFFAIR. LATTER'S ADDRESS, HOWEVER, IS UNKNOWN.

8. FINALLY, SAFRAY SAID HE WOULD BE WILLING TO SHARE SVT DECISION WITH COMATT IF LATTER WOULD CONTACT HIM BY PHONE NEAR MIDDLE OF WEEK OF SEPTEMBER 20. WILL ADVISE IMMEDIATELY IF WE ARE SUCCESSFUL IN OBTAINING INFORMATION RE SVT DECISION, IF TAKEN, FROM SAFRAY AS HE PROMISED.
MATLOCK

UNCLASSIFIED

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